

Application Ser. No. 09/809,332

Remarks

1. Claims 9-11 stand rejected under 35 U.S.C. § 102(e). The Examiner relies on Ferguson *et al.* (6,454,708) as teaching a portable remote telemonitoring system comprising, *inter alia*, a manual user process to override scheduled collection of patient data; a patient monitoring system with means for users to manually prioritize immediate or real-time requests over automated or previously scheduled requests; and a processor and system for remote data collection and reporting from remote agents.

Applicant has amended Claims 9, 10 and 11 to indicate more clearly that the event monitoring system differs from the Ferguson *et al.* in that:

Claim 9 as amended discloses an event monitoring system comprising, *inter alia*, a processor for implementing an algorithm for automated prediction of the effect of a datum on overall system health and prioritizing streams accordingly. Ferguson *et al.* does not anticipate such a processor, rather Ferguson *et al.* teaches a processor implementing an interface or prompt whereby users are given an option to prioritize a manual request over a scheduled request (see figure 8 and column 21 lines 47-52) regardless of and without informing the user of the effect of that request on overall system health (see column 21 lines 52-55).

Claim 10 as amended discloses an event monitoring system with means for automatically assigning a calculated priority to received events based on previously received data applied to a weighted algorithm. Ferguson *et al.* does not anticipate such an event monitoring system with such means, rather Ferguson *et al.* teaches an event monitoring system with means for handling errors by way of a fixed algorithm that handles errors by moving the error-causing transmission job to the end of the job queue (see column 21 lines 50-52), and where the system attempts to receive each transmission job three times before the system abandons the

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transmission job and reports the error. The means for assigning a priority to a failed transmission in Ferguson *et al.* depends solely on the position of that job in the queue and whether the transmission job succeeds or fails, and the system does not assign a priority to a job based on previous data received by the system or relative to how other jobs success or failure of transmission have affected the system's overall health.

Claim 11 as amended discloses a system configured to execute a historic learning algorithm to automatically assign priorities to event datum received from data streams without user intervention. Ferguson *et al.* does not anticipate a system wherein priorities of transmission are assigned based on previous effects of transmission on overall system health, but rather teaches a system wherein errors of transmission result in a retransmission attempt scheduled after all currently scheduled transmission/retransmission jobs and eventual reporting of the error after three such attempts (see column 21 lines 50-52).

2. Applicant thanks Examiner for pointing out the allowable subject matter of Claims 1-8.

3. Applicant has rewritten Claim 12 as an independent claim including all limitations of the rejected base claim, as suggested by Examiner.

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Should the Examiner deem it helpful, he is encouraged to call Applicant's attorney, Michael A. Glenn at (650) 474-8400.

Respectfully submitted,

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